First Nations Forestry Program

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Canada

First Nations Forestry Program

The purpose of the

First Nations Forestry Program

is to improve economic conditions in status First Nation communities with full consideration of the principles of sustainable forest management.

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Major Forest Sector Issues and Initiatives and their Impact on Aboriginal Communities

1.0 Introduction

The forest sector in Canada is currently in a state of significant transition. Broadly defined the forest sector includes the vast array of social, cultural, economic and environmental interests that depend on the forests of Canada. Principle interest groups include governments at all levels but primarily provincial governments, the forest products industries, environmental and outdoor recreation organizations, the non-timber forest products industry and Aboriginal communities including traditional land users. The forest sector is under pressure to institute change which will respond to changing public values while ensuring a continuous flow of economic benefits. Major issues driving the change process relate either to the economic importance of the forest products industry or to the challenge of sustainable forest management and all that is encompassed in the concept.

With respect to economic considerations, major issues relate to the need for a competitive forest products industry within the context of a globalized forest products market. Traditionally, the Canadian forest products industry held a competitive advantage based on cheap sources of raw fibre. The changing nature of international forest products markets has eroded this competitive advantage to the point that the industry is said to be in a crisis situation which will have detrimental effects for Canada as a whole. To remain the leading exporter of forest products, efforts are being made to facilitate industry efficiencies through the introduction of plantations, new technologies in harvesting and manufacturing, industry consolidation, and tenure reform to comply with international trade rules and agreements. In seeking new means to derive economic benefits from forests, increased attention is being given to the potential of value-added products, non-timber forest products, bioproducts and environmental services. Creating markets and appropriate mechanisms to commercialize these products and services are issues which challenge proponents within these forest sub sectors.

Though there is no broad consensus on what constitutes sustainable forest management, numerous initiatives are proposed and underway to address various elements of the concept. Forest conservation to protect biodiversity, ecosystem management approaches to maintain ecological functions of the forest, and the involvement and demand of civil society to ensure transparency and a stronger focus on aesthetic value and non-timber use, are some of the initiatives being proposed and requiring policy change and new institutional arrangements.

Within the mix of the many pressing issues and new initiatives, Aboriginal people in Canada are seeking a contemporary interpretation of their constitutionally protected rights, which would in turn, facilitate an enhanced role in the management of forest resources and a greater share of the economic benefits. Broad principles of sustainable forest management, as conceptually framed

in the Brundtland Report and in key UNCED outputs[1], have long acknowledged that special measures would be required to empower Indigenous peoples and ensure their participatory rights. Forest policies, in their evolution in Canada, have systemically excluded the interests of Aboriginal peoples. As change occurs, forest policy and institutional arrangements must provide for, and be inclusive of, Aboriginal interests – Aboriginal people have to be part of the solution and integral in the implementation of new initiatives.

This paper provides an overview of the key issues and major trends influencing forest management and forest sector activities in Canada. The purpose is to explore the impact, on Aboriginal communities and their aspirations, of the changes occurring in the sector resulting from major initiatives designed to address the underlying issues. As well, this paper is a commentary on the challenges inherent in addressing Aboriginal participation as a fundamental element of sustainable forest management and in ensuring that Aboriginal people derive an equitable share of the benefits.

2.0 Importance of Forest Industry

Forests have, for centuries, played an integral role in shaping Canada's national identity and economy. Until the first half of the 20th century, forest policy was driven by two imperatives: revenue generation for governments and economic development.[2] In the 1960's, depleting forest inventories caused provincial governments to institute private sector sustained – yield management through tenure systems which encouraged investment in wood-processing facilities.

In recent years, the forest management responsibility assumed through the tenure systems by private sector forest companies has become more complex as it must now address multiple-use including environmental concerns, aesthetics and spiritual and heritage values. These non-timber values, as they are transformed into forest management objectives, have an economic cost which is a major factor in decision-making. Methods to assign market value to non-timber goods and services, including "green accounting", is a pre-occupation in the emerging forest economy.

Notwithstanding the growing focus on non-timber use, the forest products industry continues as a major cornerstone of the Canadian economy contributing to regional development and the general wealth of the country. Industrial forestry, including timber harvesting, sustained yield forest management, and the manufacture of commodities such as pulp and paper and solid wood products, continues to be the dominant means by which economic benefits are derived from the natural wealth of Canada's forests. The industry also contributes to Canada's image as *a hewer of wood and drawer of water* as more than 80% of industry shipments are in the form of commodity-wood and commodity-pulp and paper products. Despite the focus on commodity production, it is a technologically advanced industry continuously responding to changing

[1] UNCED (United Nations Conference on Environment and Development) (1992). Outputs included: Agenda 21, Programme of Action for Sustainable Development, Rio Declaration on Environment and Development, Statement of Forest Principles, and the Convention on Biological Diversity. Brundtland Report, entitled Our Common Future, was the work of World Commission on Environment and Development, 1987

[2] Ken Drushka, Canada's Forests, A History, 2003

environmental, economic and social conditions. Industry statistics affirm (bear out) the importance of the industry to the economy:

- the forest industry (manufacturing, harvesting and services) is an $81.8 billion per year industry, which approximates 3% of the Gross Domestic Product (GDP).
- forest industry exports were estimated at $44.6 billion in 2004, making it the largest contributor to Canada's trade balance.
- the forest industry and its employees pay more than $9 billion annually to governments in the form of stumpage and royalty payments and property, corporate and income taxes.
- the forest industry supports approximately 1 million direct and indirect jobs across the country (direct jobs estimated at 376, 300 in 2003).[1]

The forest products industry is geographically diverse with operations (3,550 establishments) in all provinces and territories (with the exception of Nunavut) supporting the economies of hundreds of rural communities. The industry is export dependent – forest products are exported to 100 countries around the world and therefore access to foreign markets is fundamental. The forest products industry is currently mired in a major downturn described by some as a crisis threatening the prosperity of all Canadians.

In the global economy, the competitive advantage of the Canadian forest industry is being eroded as a result of rising wood and energy costs, changing public values with respect to environmental stewardship, and the emergence of low-cost competitors. Mill closures, resulting in reduced employment and revenue loss to governments, are today commonplace and serve as indicators of the state of the industry. The appreciation of the Canadian dollar and the softwood lumber dispute with the USA, are other major factors contributing to the slump.

2.1 International Trade in Forest Products

Over the past ten years, export sales have ranged from 64% (2004) to 81.5% (2001) of total industry sales. Of all exports in any given year, 75- 80% are destined for the USA market. Other major markets include the European Union (8-10%) and Japan and other Asian countries (12-15%). Forest products exported in 2003-04 reached $39.6 billion confirming Canada, once again, as the world's largest exporter of forest products.

In providing policy direction in the forest sector, governments must adhere to the broad rules of trade as established through the World Trade Organization (WTO) and trade agreements such as the North American Free Trade Agreement (NAFTA). Rules applicable to international trade

[1] Industry statistics are compiled annually by Natural Resources Canada and published in "The State of Canada's Forest Reports". Other industry data used in paper are from the Forest Products Association of Canada website, www.fpac.ca

under WTO are meant to facilitate trade and remove restrictive trade practices. Among other issues, prohibited trade practices include government subsidization of forest companies and the imposition of import restrictions in the form of tariff barriers and non-tariff barriers, i.e. inappropriate forest product standards. Although all are voluntary, forest certification systems are seen by some industry representatives as akin to a non-tariff barrier.

The Canadian forest industry over the past two decades has been the object of several environmental campaigns aimed at influencing forest practices by reducing access to markets. Currently, Forest Ethics, an environmental organization based in the USA, in a campaign entitled *Bringing Down the Boreal*, is pointing out how US consumption of forest products is destroying Canada's endangered northern forests. To counter this type of campaign, the Canadian forest industry has embraced forest certification as a means of demonstrating sustainable forest management practices (see later sections on certification).

The Softwood Lumber Dispute with the USA, which has been ongoing since 1982, has been particularly detrimental to the forest industry. The dispute is based on allegations by the USA that provincial stumpage systems convey a subsidy to lumber producers. Under WTO trade rules, a subsidy which distorts competition is an unfair practise which in turn justifies countervailing duties. In recent years, duties imposed on softwood lumber by the USA have been as high as 27% (2002-2003) and as of December 2005, the duties have been reduced to an average of 10.8%. Except for the period of the softwood lumber agreement (1996-2001), there has seen a series of WTO and NAFTA challenges and decisions but no lasting resolution to the dispute.

Initiatives

A major issue for governments and the forest industry is the need to maintain, and if possible expand, market access in view of increased competition from other producers and from substitute products. Trade liberalization therefore, is strongly supported and considerable effort goes into addressing major issues such as tariff and non-tariff trade barriers. Though the USA promotes trade liberalization around the world, it has taken a protectionist approach with respect to softwood lumber trade with Canada. At the top of the list for Canada's market access priorities for 2006, is the goal of removing duties on Canadian softwood lumber export to the United States.

Considering the forest industry dependence on international trade, governments and forest industry companies and associations, vigorously take part in trade policy negotiations in accordance with existing trade agreements, e.g. NAFTA, and through established governing bodies such as the World Trade Organization. A primary role of International Trade Canada, the Canadian Trade Commission Service, Natural Resources Canada and some provincial government departments, is to promote and facilitate trade, which inherently includes a large focus on the forest industry. Initiatives such as the Canada Wood Export Program enable governments and industry to work together in increasing visibility and acceptance of Canada's forest products in foreign markets through market research, trade show participation, product development and a range of technical support activities.

WTO trade rules and the softwood lumber dispute with the USA have had a tremendous impact on the forest industry in Canada both from an international trade perspective and from a domestic policy point of view. Internationally they have pointed out the need to diversify into new markets and market areas, i.e. value-added processing. New markets that are emerging for Canada forest products are China, Taiwan, Korea, and India, where trade discussions are leading to bi-lateral trade arrangements, joint ventures and other forms of partnership. Domestically, they have caused some provinces to review their tenure and stumpage systems, consider privatization and the elimination of appurtency requirements, and strive to make their forest management regimes more market-oriented, i.e., market-based pricing for timber.

With respect to forest certification, the Forest Products Association of Canada, in 2002, required that all lands under its members' management be certified by one for the three recognized standards in use in Canada: Canadian Standards Association (CSA), Forest Stewardship Council (FSC), and Sustainable Forestry Initiative (SFI). In the view of environmental organizations, not all certification systems are created equal.[4] Aboriginal organizations have made statements to the same effect, pointing out that only the FSC standards address the accommodation of Aboriginal and treaty rights as a matter of process.[5]

2.2 Trends and Structural Change in the Forest Industry

The forest industry in Canada is currently in a process of self-rationalization as it responds to changing patterns of trade, environmental and social issues, and the plethora of economic factors impacting negatively on the bottom line. The forest industry, made up of private sector companies that have taken on forest management responsibilities of public land, must still be focussed on profitability and other performance indicators such as ROCE (return on capital employed). Overall, the financial performance of Canada's major forest companies has declined over the past five years and the current economic outlook is that conditions are not likely to improve anytime soon. More over, the current downturn in the forest industry is being seen as much more than a cyclical swing. It is seen by some as a fundamental paradigm shift which will result in the traditional forest industry reducing its relative economic dominance as economic opportunity is sought from value-added processing and the development of new products and services.[6]

Over the past ten years, corporate strategies to remain competitive and retain or expand market share, have varied from broad diversification approaches to the more recent "consolidation of core product lines".[7] Both of these strategic approaches have resulted in mergers and acquisitions as they follow globalized thinking that bigger is better. Diversification strategies

[4] Behind the Logo, published by FERN, 2001 and On the Ground, a 2003 report commissioned by Forest Ethics, Greenpeace and Sierra Club of Canada

[5] Correspondence of Nishnawbe-Aski Nation and Grand Council Treaty #3 and the resolution of NAFA on FSC as the preferred certification system

[6] Focus on Fibre for a Forest Fix, Brian Emmett, ADM Canadian Forest Service in CFS Viewpoint, Fall 2005

[7] Trends in Acquisitions and Mergers in the Forest Product Industries, Dave Boulter, NRCan, 2001

have enabled companies to offer full product line servicing while consolidation facilitates specialization and other efficiencies but within a narrow market niche. Corporate strategies and mergers and acquisitions have influenced the following industry trends:

- increased "contracting out" for logging, hauling and forest management services. Contractors now harvest 90% of the eastern Canadian volume.[8]

- fewer but larger companies managing the commercial forested land base. The top 15 lumber producers account for 64% of Canada's total production. In Ontario, eight companies use approximately 90% of the wood harvested, whereas in 1990-91, 24 companies processed 90% at the wood harvested.[9]

- mill closures and layoffs in both lumber and pulp and paper industries.

The changing "fibre basket" is also a driver of structural change. As a result of more plentiful supply of birch, aspen and poplar in closer proximity, the production of oriented strand board (OSB) continues to be an area of growth. Between 1994 to 2003 there was a 12.6% annual increase in capacity as acceptance of OSB as a substitute for plywood grew in USA and Canadian housing markets. The trend to OSB is expected to continue and the fibre basket will no doubt continue to influence future structural change.

2.3 The Focus on Forest Industry Competitiveness

As commodity producers, forest product companies in Canada are price takers meaning they have little influence over prices – the market sets the price. Consequently forest companies must maintain cost competitiveness to assure their long-term viability. In the past two years, costs of wood supply, labour, energy, environmental protection and other operating costs have risen exponentially. Add to this the rising Canadian dollar and the entry of low-cost competitors into the marketplace, and loss of viability becomes readily apparent. Inevitably, older inefficient mills and processing facilities more directly impacted by the cost crunch will close indeterminately. In eastern regions of the country, there will be fewer plants, fewer jobs and less production in traditional commodity products. The forest sector focus on industry competitiveness is cognizant of the loss of competitive advantage and that structural changes should not be opposed but rather it should be accepted and strategically supported. In terms of government support to assist in transition and to remain competitive, the industry is seeking an improved business climate which could be achieved by eliminating capital taxes, modernizing regulations to support the sector's global market position, and providing greater direct market support. Of particular concern to the industry are policies which prevent the closure of inefficient higher-cost facilities and restrict the rate of consolidation. In Ontario, where there has been several mill closures brought about by huge financial losses of leading forest companies, an industry report (2005)[10] has called for new measures to reduce industry operating costs. These include having the province - rather than the

[8] Technology Road Map for Forest Operations in Canada, FERIC, 1996
[9] Minister's Council on Forest Sector Competitiveness, Ontario, Final Report, May 2005
[10] ibid

industry - pay the cost of building and maintaining logging roads, and encourage energy co-generation projects, in which energy created by manufacturing processes is distributed on the provincial power grid. In supporting the Canadian forest products industry, governments must be cautious of infringing international trade rules.

On November 24, 2005, the Government of Canada announced the Forest Industry Competitiveness Strategy, a five year $1.5 billion strategy which will invest in innovation and "aid in the modernization and transformation of the forest industry". Provincial governments, particularly British Columbia, Ontario and Quebec, also committed hundreds of millions in 2005 to support forest industries and forest-dependent communities to mitigate the impacts of the transition and to create a climate for new investment. The competitiveness focus is on trimming costs in commodities production, expanding markets and applying transformative technologies.

2.4 Implications for Aboriginal Economic Development

Ask most Aboriginal people what impact the industry downturn is having on them and the probable answer is "none". Most Aboriginal communities derive little benefit directly from the operation of an OSB plant, sawmill, or pulp and paper mill in the neighbouring non-Aboriginal community. In some parts of the country, this situation is changing as Aboriginal forest interests become better recognized. Most provincial governments now have some aspect of Aboriginal inclusion reflected in their forest policy.

With the exception of pulp and paper manufacturing, Aboriginal enterprises exist in all forest industry sub-sectors. Currently there are 180 First Nations that have gained access to timber resources through provincial forest tenure systems though only four hold area-based tenures. NAFA's study on *"Aboriginal-Held Forest Tenures in Canada"* (2003) estimated that Aboriginal enterprises have acquired about 4% of the annual allowable cut on a national basis. On January 29, 2006, the province of British Columbia announced that it has now signed forestry agreements with 100 different First Nations. These initiatives form part of BC's Forestry Revitalization Plan which suggests that about 8% of long term forest licenses will be re-allocated to First Nations.

Most of the advancements made in Aboriginal forestry have been through the acquisition of harvesting rights. Consequently, most Aboriginal forest companies are involved in logging, silviculture, and the provision of other forest management services. NAFA estimates that there are more than 600 Aboriginal forest companies that are concentrated in these areas. With respect to manufacturing, First Nations hold an equity position in about 50 small wood processing facilities predominately through joint venture arrangements. It should be noted that within the forest sector as a whole, there are 3,550 wood processing facilities. Considering the areas of Aboriginal involvement, and the fact that existing joint ventures are most often with large multi-national companies, Aboriginal people have little involvement in the downstream marketing, promotion, and distribution of forest products.

Forest policy, structural change in the forest industry, and government initiatives to address the major issues have a direct effect on the nature of Aboriginal forest based development. Broad implications are as follows:

(i) international trade in forest products

- The liberalization of trade, as a general direction of the WTO, is seen by some, as an area of conflict, considering the need to protect environmental values and achieve social objectives.

- International trade arrangements negotiated by nation states typically exclude consideration of Indigenous Peoples. Proprietary and title interests of Aboriginal people, in BC for example, were not considered in negotiating the Softwood Lumber Agreement nor were these rights considered in the allocation of quota under the agreement. The Interior Alliance of BC Indian Nations has had some success in achieving recognition for Aboriginal and treaty rights at the WTO. Their 3rd party submission in 2002 argued that Canadian stumpage prices do not take Aboriginal title into account and therefore a subsidy to forest companies is conferred. They further stated that a fair market price would have to take into account the economic value of Aboriginal proprietary interests.[11]

- There are no known examples of trade agreements working to the benefit of Aboriginal-owned forest businesses, as they are not large exporters of goods or services. With respect to business start-up, Aboriginal businesses are often dependent on government contributions. A further threat to Aboriginal economic development is the possibility that government assistance may be viewed as subsidy under prevailing trade rules thereby denying access to markets for Aboriginal – produced goods or services.

- In some instances, the move to standardize forest management practices to level the playing field in trade relationships has had direct implications for provincial forest policy. In particular, Ontario's response to trade criticisms has resulted in the Minister not providing a guarantee of continued wood supply for each wood-processing facility. This required a 2004 amendment to the Crown Forest Sustainability Act. The impact of this decision has meant that many wood directives or right of first refusal requirements have been removed for licensees. This is creating a more competitive market for timber in Ontario, thus far to the detriment of First Nations.

- International trade agreements often take precedence over other national and international environmental and human rights legislation. The collective and proprietary interests of Aboriginal people in natural resources are neglected in the

[11] Amicus curiae submission to the WTO, June 10, 2002, by the Interior Alliance of BC Indian Nations

negotiation of international agreements, which for the most part are based on the concept of privatized property. International trade agreements that preclude the recognition of Aboriginal rights, in essence infringe those rights. Indigenous rights then are reduced to an issue of "free trade" and subject to the vagaries of the marketplace. [12]

- The Free Trade Agreement of the Americas (FTAA) is intended to be the culmination of the trade liberalization movement and a model for future work at the World Trade Organization (WTO). Incorporating many of the elements of the failed Multilateral Agreement on Investment (MAI), which was rejected by Canada's Assembly of First Nations, the FTAA would also include strengthened provisions on enforcement, technical barriers to trade (i.e., domestic laws and regulations) and investment and force the privatization of public services. The concepts of privatization, which fuel the trade negotiations, conflict directly with the tradition of respecting Aboriginal collective rights, communal property and governmental fiduciary duties established in Canadian law.

(ii) trends and structural change in the forest industry

- mergers and acquisitions: With fewer forest companies operating in the sector, relationships became more concentrated and determined by corporate policy. Though there have been increases in forest company/Aboriginal partnerships, Aboriginal involvement has become entrenched in certain aspects of the industry. In the past few years, there have been no significant Aboriginal start-ups in forest products processing though as a result of more wood allocation by provincial governments, Aboriginal companies have collectively increased both tenures held and volumes harvested.

- economies of scale: Globalized pressures to take advantage of economies of scale have set significant barriers in place for emerging Aboriginal interest to participate in the industry. The mentality is largely, "go big, or go home." The bar has been set pretty high in terms of capital required to enter into these types of ventures. Access to the capital required to enter into these large ventures is nearly impossible for impoverished Aboriginal communities to attain. Trends to create large international forest conglomerations result in Aboriginal exclusion.

- mill closures: Innovation and improved technology tend to lead to decreases in employment levels. In the past 25 years, there have been increasing volumes of wood materials produced without a matching increase in employment. In 1994, the pulp and paper industry indicated in a report that up to 20,000 people out of the 72,000 employed in pulp and paper mills across Canada would lose their jobs between 1990 and 2000 and most losses would be concentrated in small communities in Ontario, Quebec and Atlantic Canada. These losses translate into lost opportunities for Aboriginal communities located in these areas. Depressed rural economies in these northern

[12] Richard Howitt, Rethinking Resource Management, 2001

regions have resulted in negative impacts within neighbouring Aboriginal communities.

- structural change in the forest industry may also offer opportunity to Aboriginal communities in several different areas; harvesting, value-added and secondary processing, forest management and forest management services, and the acquisition and modification of closed mills. Innovation appropriate to the needs and circumstances of Aboriginal communities will be imperative to seize these opportunities.

(iii) the focus on industry competitiveness

- Institutional arrangements, such as efforts to establish federal and industrial research partnerships, which focus on maximizing profits in the forest industry, may result in a lesser focus on environmental quality and community sustainability. Aboriginal socio-economic issues may not be adequately addressed in research initiatives within this type of arrangement.

- Innovation incentives through science and technology programs i.e. elements of the Forest Sector Competitiveness Strategy, are targeted primarily at existing industrial initiatives, further abetting and entrenching long established forest enterprises within Canada. There are few Aboriginal communities in Canada that would benefit from these types of programs. Government policies to create attractive economic climates for existing enterprises, inadvertently result in further excluding Aboriginal participation in this sector, as the incentives provide benefits to industry, creating barriers to new competitors or emerging business interests, such as those held by the Aboriginal community.

As a result of announced mill closures, government initiatives have been announced to offset or lessen the impact of these industry transitions, and are often directed specifically to forest-based communities where some type of forest processing facility was located. Many Aboriginal communities will not have access to these initiatives, as few mills are owned by Aboriginal people.

3.0 Non-Timber: Products, Use and Values

Mature forests also provide the venue for a range of recreational, wilderness, and wildlife related activities. These non-consumptive uses form part of the growing ecotourism industry. Placing a monetary figure on non-consumptive and recreational activities has not been done on a comprehensive basis as such values are often not priced as a product bought and sold in the marketplace. A recent study entitled Counting Canada's Natural Capital, Assessing The Real Value of Canada's Boreal Ecosystems, estimated the net market value of boreal natural capital extraction in 2002 at $37.8 billion and the non-market value at $93.2 billion. Based on this type of argument, some economists have concluded that, in certain areas of high demand, a forest left standing has much more economic value in its natural state than would the timber if harvested over a short period of time. It is broadly acknowledged, that methods for valuing non-timber use

of forests have limitations and that there are trade-offs of particular detriment to those most dependent on that use.

Increasing in economic importance are products made from forest resources other than timber. These include what have been known as non-timber forest products (NTFP's) and forest bioproducts which usually involve the harvesting of forest biomass (biological materials). NTFP's, sometimes referred to as special or secondary forest products, include a diverse range of items – some 500 in North America alone. They are usually categorized as natural/specialty foods, medicinal plants and herbs, floral greenery and decorative craft/products and landscaping products. Better known NTFP's include maple syrup, mushrooms, wild rice and berries, and Christmas wreaths. Forest bioproducts are derived from the use of biotechnologies and natural resources (plant materials). Products include: health and personal care (pharmaceuticals, nutraceuticals, essential oils), materials and manufacturing (adhesives, dyes, resins), and environmental and energy (biofuels, biodiesel, recycled products and biopesticides). [13]

NTFP's and forest bioproducts are not mutually exclusive. Rather, there is considerable overlap and in some cases a forest bioproduct is nothing more than a value-added NTFP. For example, the eastern yew (ground hemlock) has long been harvested by Aboriginal people as a medicinal plant noted for broad healing properties. Today, the eastern yew is harvested to extract paclitaxel, a taxane, used in the manufacture of cancer drugs and applied in chemotherapy.

3.1 Non-Timber Forest Products

The NTFP's industries in Canada are not closely monitored by governments on their economic performance or their contribution to the GDP. Only when there are commissioned studies on specific products is there data developed to quantify the volume or value of shipments or their economic benefit to rural communities. The exception to this statement is the maple syrup industry which in 2003, generated sales of $170 million. To give an indication of a specific product, the pine mushroom; it is estimated that exports from BC to Japan exceed $40 million in annual sales. The annual State of Canada's Forest report 2004-2005 estimated economic output of forest-based foods at $725 million to $1.33 billion and the future economic potential between $2 and $7.4 million. To a large degree, NTFP's have been viewed as either a craft industry, part of the subsistence economy, primarily agricultural in focus, or a traditional activity closely tied to a particular cultural group. Recently some governments have instituted permitting to authorize the harvest of particular non-timber resources such as mushrooms, and in British Columbia, community forest tenures and forest and range agreements include the collecting of botanical forest products as a forest practice, which must be inherently addressed to ensure sustainability.

Efforts to develop NTFP's industries usually focus on the value to communities in terms of the potential for economic diversification. Two such efforts are:

[13] Randall Goodfellows, President of Bioproducts Canada in ULERNews, Winter 2002

Northern Forest Diversification Centre (NFDC) – Located in The Pas, Manitoba, NFDC acts as a research, training, marketing, sales and service centre for the NTFP's industry. Their vision is an NTFP's industry network composed of community-based and diverse micro-enterprises, supported by a 21st century packaging and marketing infrastructure.

Royal Roads University – Located in Victoria, British Columbia, Royal Roads developed the first accredited certificate program focusing on NTFP's. Their focus is on research, education and capacity-building, policy and stewardship, industry building and resources and publications.

No clear direction has emerged in the form of government policy for the regulation and management of NTFP's resources or related business activities. Along with the matter of economic valuation, are issues of resource access, sustainable non-timber resource use and their integration in existing forest management regimes. The lack of comprehensive inventories and regulation for NTFP's has raised concerns of resource depletion, resource access rights and user fees, which now do not contribute to the cost of forest management and road maintenance and very little to government revenues.

3.2 Forest Bioproducts

Considerable investment in research and development is currently being made throughout Canada in the development of bioproducts. Forest bioproduct development forms a significant part of Canada's forest industry competitiveness strategy and is reflected in the transformation currently taking place in the forest industry. The existing forest industry players see innovation in this area as a means of addressing environmental issues and providing a new stream of revenue. As well, new small and medium size firms are emerging as early adapters of bioproducts and bioprocessing technologies. To support this quickly growing industry, the federal government has established support programs such as those ($75M in 2004-05) developed to implement the Canadian Biotechnology Strategy. Organizations such as Bioproducts Canada, an industry-led coalition funded by the private sector and government, have been established to research and commercialize bio-based products sourced from agriculture, aquaculture and forest sectors. In 2004, there were 472 biotechnology companies in Canada.[14]

Biotechnology is the application of biology and biological techniques to develop products and industrial processes. Controversial forms of biotechnology, such as *genetic engineering* (gene transfer between organisms) are used in the manufacture of some bioproducts, and pose numerous ethical and legal questions. Genetically modified organisms (GMOs) have been a flashpoint of public concern based on arguments that they will have adverse impacts on natural

[14] Ernst and Young, Beyond Borders: Global Biotechnology Report, 2005

ecosystems,[15] biodiversity, and ultimately the people that inhabit those ecosystems. The development of genetic resources through biotechnology is the central technological enabler of the bio-based economy.[16]

The commercialization of bioproducts brings into play complex legal issues such as intellectual property rights (IPR) and questions of social justice such as access to genetic resources and benefit-sharing. IPR are intended to protect the results of investment in the development of new technologies, thus giving the incentive and means to finance research and development activities. Biotechnology companies are motivated to protect their investments and seek exclusive rights to an invention through IPR regimes which normally consist of patents, trademarks, industrial designs and copyrights. However, at the genetic level, questions remain about the patentability of genetic material and ownership of IPR over genetically-based inventions. Origin or source of the genetic resource and the associated knowledge are matters that need to be addressed through appropriate IPR regimes.

> The United Nations Convention on Biological Diversity (CBD) has three objectives: the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. The Convention sets out the parameters for accessing genetic resources that require the users of the genetic resources to obtain prior informed consent from the providers and to develop mutually agreed terms before sampling of genetic resources proceeds.

At the present time, Canada does not have Access and Benefit-Sharing (ABS) policies/laws such as those contemplated in the CBD. At the present time, the federal government is leading a consultation and policy review process aimed at building awareness and identifying gaps in the existing IPR regimes. Considering that provinces and territories regulate natural resources within their boundaries with powers to legislate for the conservation and management of forest resources, the challenges to develop uniform country-wide ABS policies are formidable.

3.3 Aboriginal Impacts

Non-timber forest use is what has sustained the Aboriginal peoples of Canada for milenia and has been the primary source of their knowledge, beliefs and cultural practises. The dependence on forest and forest resources continues today albeit severely limited by other competing interests from within Canadian society. A recent report on Alberta's boreal region finds that (food) subsistence values alone range from $5000-$11,000 per Aboriginal household annually depending on location.[17] Although Aboriginal peoples derive significant benefits from forests in

[15] Primer on Bioproducts, Pollution Probe and BIOCAP Canada Foundation
[16] ABS Policies in Canada, Environment Canada, November 2005
[17] Counting Canada's Natural Capital, the Pembina Institute, 2005

a socio-cultural context and from traditional economic pursuits (hunting, fishing, trapping and gathering), commercialization of non-timber use and provision of outdoor recreation and nature-based tourism products are areas of development that offer potential for Aboriginal communities.

The harvesting, production and commercialization of NTFP's and forest bioproducts are matters which implicate Aboriginal and treaty rights and the *traditional forest-based knowledge* of Aboriginal people. Although an Aboriginal right to NTFP's has not been definitely established by the courts it is probable that one does exist.[18] The principles established by the courts in relation to the Aboriginal right to fish, the need to consult, and to avoid rights infringement, would seem to be more relevant in the context of NTFP's. The recorded use of forest materials for food, ceremonial purposes and in inter-tribal trade would seem to rationalize a priority right of access and to trade.[19]

The development of Access and Benefit Sharing policies to comply with the CBD and to advance the NTFP's and biotechnology industries is bringing to the forefront numerous issues around traditional knowledge. The incompatibility between existing intellectual property rights regimes and traditional knowledge has been broadly acknowledged.[20] A major concern is that traditional knowledge will be misappropriated (bioprivacy) without prior informed consent or compensation to the Aboriginal people or community that developed that knowledge over time. *Bioprospecting*, the search for genetic resources in living things that will have some medical or commercial use, is on the rise in Canada. The traditional knowledge of Aboriginal people of the medicinal properties of plants is being seen as a potential resource for innovation.

Although NTFP's are often heralded as the means for more diversified forest-based economies, there has not been a noticeable increase in the number of Aboriginal NTFP's businesses. NTFP's harvesting, as a component of forest management, is being accorded higher priority now that the economic value is becoming more evident. As a result of accelerated NTFP's and bioproduct development, there is a need for Aboriginal communities to document their traditional land use activities and establish protocols on the use of traditional knowledge. Though this has not been common practise to-date, traditional knowledge should be viewed as intellectual property and protected accordingly.

Industrial interests in developing botanical and medicinal products derived from NTFP's will place unknown pressures on Aboriginal communities. The drive to establish economic interests centred on the development of these products may conflict with Aboriginal community values, interests and uses. In some cases, Aboriginal communities may hope to develop an economic interest in a certain product to find that it has already been allocated. The opportunity for Aboriginal communities to become involved in biotechnology is strong considering their proximity to natural resources providing access issues can be addressed and there is a supportive

[18] Property Rights in the Sustainable Management of NTFP's, Tedder, Mitchell, Hillyer, 2002, for the BC Ministry of Forests

[19] ibid

[20] November 1992, Canada's federal, provincial and territorial ministers of the environment, parks and wildlife signed "A Statement of Commitment To Complete Canada's Networks of Protected Areas"

policy in terms of capacity-building, infrastructure support, and benefit sharing.

4.0 Environmental Challenges and Issues

Environmental issues facing the forest sector pertain to the impact of development activities (agriculture conversion, forest harvesting and access roads, mining, petroleum exploration and development, hydro installations, etc.) on the ability of forests to perform their ecological functions. The major issues are inter-related and management strategies and actions must be balanced and comprehensive. Forest conservation, for example, is a much-heralded approach in that it addresses numerous issues including biodiversity preservation, water filtration and carbon storage. It may however, have the effect of putting added pressure on other natural forests or set the stage for greater risk of fire or insect infestation.

Well functioning forest ecosystems provide invaluable services including watershed protection, biodiversity and carbon storage. Forest degradation can lead to a range of environmental problems at a local level and contribute to global environmental issues such as climate change. Forest managers and land owners currently lack financial incentive to conserve their lands and resources so as to maintain ecosystem integrity.

In Canada and throughout the world, governments are considering a range of market and non-market-based approaches and institutional and environmental governance frameworks to create conditions for effective management of ecosystems. Given greater focus and impetus by the objectives and targets set out in the Kyoto Protocol, the role forest ecosystems play in storing carbon is the leading example of an environmental service. Carbon credit trading is expected to be a multi-billion dollar industry by the end of the decade. The value of other ecosystem services; watershed protection and hydrological services, biodiversity conservation, is also expected to rise exponentially should market-based approaches by appropriately devised and implemented. In the meantime, the market for ecosystem services will likely be a combination of public payment schemes, the trading of credits through voluntary and government sanctioned trading arrangements, and bilateral private deals organized and agreed to by corporate and public entities (the buyers) and the service provider.

Global climate change is considered by leading environmentalists to be the most serious threat facing the world today. Forests and forest management factor large in global efforts to assess impact and in determining mitigation and adaptation strategies. Considering that Canada has 10% of the world's forest and is committed to reducing green house gas emissions to 6% below 1990 levels, forest carbon management will an increasingly contentious issue.

The establishment of parks and forest protected areas is a fundamental component of the overall strategy to maintain forest biodiversity in Canada. As well, it is an integral component of envisaged federal and provincial representative networks of conservation and protected areas. In response to the Convention on Biological Diversity, Canada is committed to "establish protected areas to conserve representative and critical forest ecosystems as part of an overall network of

protected areas....."[21] Forest conservation is not only a government priority, resource companies, non-governmental organizations, local citizens groups, private landowners and a growing number of First Nations have initiated programs to conserve biodiversity.

Initiatives

As a signatory to the Kyoto Protocol, Canada has committed to reducing greenhouse gas emissions to 6% below 1990 levels by 2010. (Kyoto became law in 2005). Although reducing fossil fuel burning is the primary means of mitigating climate change, forest management can play a role protecting the carbon stocks in forests and sequestering additional carbon through afforestation. A controversial component of Canada's Climate Change Plan (released in 2002 and revised in 2005), is the role of forest carbon sinks and how best to measure and provide financial incentive for net or incremental increases in carbon storage. Environmental organizations argue that forest carbon sinks are only temporary as the carbon will inevitably be released back into the atmosphere as forests are logged or natural disturbances (fire, insects, disease, windthrow, etc.) cause their eventual demise. Nonetheless, new initiatives are proposed or have been implemented to enable forest sinks to be sold as offsets in emissions trading:

- Forest 2020 is a program designed to establish plantations of fast-growing trees on previously unforested lands. The potential for carbon credits resulting from this program is currently being assessed.

- A National Forest Carbon Monitoring, Accounting and Reporting System has been developed.

- Several forest carbon projects have been launched whereby carbon credits are being sold (see Sask-Power as an example).

Potential initiatives for the management of forest carbon include: the establishment of reserves and set-asides, lengthening the rotation age in managed secondary growth forests, selection logging and reduced deforestation. Forests as carbon sinks will assist Canada in meeting carbon reduction targets under the Kyoto Protocol. If Canada should choose to count "managed forests" in its Kyoto accounting, there will be enormous other implications for forest management and the potential for carbon revenue. Under Forest 2020, the federal government established a series of plantation sites to test their use in offsetting greenhouse gas emissions. This demonstration program, now completed, has been succeeded by an assessment (Forest 2020 PDA) which is now underway.

Market approaches for other environmental and ecosystem services have not been addressed other than through ad hoc government or corporate programs. Though the demand for services is growing, there has not been a concerted use of broad based institutional or economic instruments to achieve the underlying objectives.

[21] Canadian Biodiversity Strategy, 1995

To accelerate and expand on the governments plans for protected areas, ENGO's have launched the Canadian Boreal Initiative (CBI) which calls for the setting aside of 50% of the boreal forest, as protected areas. The CBI, led by the Boreal Leadership Council, in accordance with the Boreal Forest Conservation Framework stresses the urgency in adopting a conservation approach to the entire boreal region in view of the unprecedented loss of Canada's natural capital. It calls on governments and industry to take committed action on conservation and leading-edge sustainable development practises in the working forest (the 50% which would not be protected).

4.1 Aboriginal Considerations

Aboriginal communities' dependence on forest resources makes them particularly vulnerable to environmental change and changes in forest land use. It is therefore important that Aboriginal communities be strongly supported in their efforts to mitigate and adapt to climate change and that they be involved in forest and biodiversity conservation initiatives as key players. From the perspective of Aboriginal communities, engagement in climate change mitigation or adaptation strategies or in biodiversity conservation initiatives begins with *land use and occupancy studies* in which key values can be documented and the traditional knowledge can be assessed in terms of protective measures and its contemporary use in resource management.

Research is essential to develop adaptive strategies for First Nation communities to deal with the impacts resulting from climate change. The Council of Yukon First Nations has developed a climate change strategy. The Arctic Athabaskan Council and the Gwich'in Council participated in the Arctic Climate Impact Assessment, an international project to evaluate and synthesize the knowledge on climate variability, climate change, and increased ultraviolet radiation and their consequences.

However, very few First Nations communities and regions south of 60° latitude have been able to assess current and future climate change impacts and assess what their needs are in this area. There needs to be improved understanding on this issue through capacity development, research and awareness-raising for all First Nations communities. By building on the research done in the north, in addition to ensuring that traditional knowledge is incorporated with western scientific research models, First Nations can begin to respond and adapt to the impacts of climate change.

The conservation of biodiversity is the main objective of the CBD, to which Canada has been a signatory since 1992. With respect to forest biodiversity, provincial governments have the lead as a result of their jurisdictional control over natural resources. Article 8(j) of the CBD recognizes that traditional knowledge and the holders of traditional knowledge can contribute to conservation of biological diversity and to sustainable forest management policies and programs. Currently there is a lack of institutional arrangements which would see broad land use and forest management planning incorporate traditional knowledge as a matter of process. Traditional land use studies and ongoing cultural research are fundamental to more effective Aboriginal participation in natural resource management activities.

Conservation initiatives, particularly the establishment of parks and protected areas, have been both the reason for conflicts and the means by which other conflicts have been resolved. In recent history, the establishment of parks and protected areas has had the effect of limiting traditional use without reciprocal benefits in the form of employment or business development opportunities. The establishment of parks is a "taking-up of land," which will inevitably restrict or limit Aboriginal land use and the exercise of Aboriginal and treaty rights. On the other hand, there have been several examples, i.e., Great Bear Rainforest, whereby the establishment of a protected area was the compromise position reached between resource companies, environmental groups, and the affected Aboriginal community.

Conservation as an objective of forest management is a matter of particular concern to Aboriginal communities. Undoubtedly, the "taking up" of a large area of land in the traditional territory of a First Nation as a protected area would limit the ability of that First Nation to utilize land and resources. In effect, the establishment of a protected area could constitute an infringement of Aboriginal or treaty rights or on the other hand, the "taking up" of land could be justifiable as per the Sparrow decision. In that case the Supreme Court held that conservation is a valid objective which may justify an infringement of Aboriginal rights. Is the Boreal Forest Conservation Framework objective of establishing 50% of the boreal region as protected areas a valid conservation objective? In the process of establishing protected areas, will the infringement of Aboriginal and treaty rights be deemed justifiable? If so, treaty rights may be limited in their scope in 50% of the boreal.

5.0 Sustainable Forest Management (SFM)

No broadly accepted international or Canadian instrument clearly defines sustainable forest management. According to the United Nations Conference on Environment and Development (UNCED) Forest Principles, "forest resources and forest lands should be managed sustainably to meet the social, economic, ecological, cultural and spiritual needs of present and future generations". To advance sustainable forest management at the international level, the United Nations Forum on Forests (UNFF), since UNCED, has had lead responsibility. The UNFF utilizes the following working definition:

> the stewardship and use of forests and forest lands in a way, and at a rate that maintains their biodiversity, productivity, regeneration capacity, vitality and their potential to fulfill, now and in the future, relevant ecological, economic and social functions, at local, national, and global levels, and that does not cause damage to other ecosystems.

The major differences between sustainable forest management and what was practiced previously is that forests now must be managed for a vast array of objectives related to forest goods, services, attributes and values, and not just wood fibre.[22] Consequently, forest management should encompass the maintenance of whole ecosystems with a focus on multiple functions of forests giving greater balance between socio-cultural functions and economic functions. Initiatives to address major environmental issues such as climate change, biodiversity, conservation, become fundamental elements of sustainable forest management as these matters are dependent on, or related to, fully functioning forests.

5.1 Social Factors and Public Participation

The forest industry through its responsibilities in forest management plays an important role in the welfare of local communities. Industry statistics point out that there are more than 300 non-Aboriginal communities that are totally forest-dependent. Eighty-percent of First Nation communities in Canada are located in forest regions where most forest development occurs. That they would want to participate in forest management and maintain the socio-economic benefits they derive from their forests is not surprising.

In response, the federal and provincial forest policy and industry-initiated corporate policies are providing opportunity for the Canadian public to participate in forest management and other land use planning processes. Policy frameworks for public participation exist in the forest legislation of provincial and territorial governments. The purpose of increasing public participation is to be comprehensive and inclusive and ensure that there is an integration of all social, economic and environmental considerations in natural resource management and decision-making. In some

[22] Sustainability and Sustainable Forest Management. Wiktor L. Adamowicz and Phillip Burton, 2003, National Research Council of Canada

provinces, Aboriginal communities are invited to participate as members of the public and other provinces have implemented consultation process as specifically for Aboriginal communities.

Depending on the sector and the jurisdiction, public participation takes the form of multi-party management boards, roundtables, advisory committees, hearings, media campaigns, open houses, and intervener programs. These techniques, either used singularly or in combination, have been collectively dubbed multi-stakeholder processes. Concepts of sustainable forest management and ecosystem management embrace public participation as critical to the eventual success of planning and management processes.

5.2 Implementation of SFM

Efforts to advance sustainable forest management in Canada are being made on a number of different fronts through approaches that reflect the broad shift at national, provincial and local levels. In some provinces, changes have been made in forest management legislation to embody components of sustainable forest management resulting in for example, new harvesting guidelines, an emphasis on maintaining wildlife habitat and measures to protect soils and retain natural landscape patterns. Although recent or suggested changes in forest policies and forest practices may be referred to as a "shift from sustained-yield forestry to SFM", it must be strongly emphasized that sustained-yield timber management remains a foundation of SFM today.[23] Incremental change is what has occurred to date fuelling the argument that not all components of SFM have been addressed in forest policy and practise.

The commitment to sustainable forest management is widespread in the forest sector though the understandings of what needs to be done to achieve it, varies greatly. At the national level, a series of five year national forest strategies beginning in 1992 has provided some consensus and broad direction for SFM implementation. An evaluation of the strategy which ran from 1998-2003, found that substantial progress had been made on only 37 of the 121 commitments made. The current National Forest Strategy, 2003-2008, A Sustainable Forest The Canadian Commitment, contains 8 themes with broad objectives and 47 action items. Themes deal with ecosystem-based management, public engagement and industry competitiveness to name a few. Theme 3 has as an objective, to accommodate Aboriginal and treaty rights in the sustainable use of the forest recognizing the historical and legal position of Aboriginal Peoples and their fundamental connection to ecosystems.

Criticisms of the national forest strategy process are that it lacks political commitment, budgets timeframes (measurable action plans), and in the end, does not significantly influence provincial policy. The benefits of the strategy is that it brings together a broad range of forest interests (stakeholders) for a common goal, creates better understanding of the various perspectives and establishes more effective partnerships.

[23] ibid

A more action-oriented national initiative aimed at reforming institutional arrangements in the forest sector to achieve sustainable forest management is the Canadian Council of Forest Ministers (CCFM) Framework for Criteria and Indicators (C&I) for SFM. The first version of the CCFM Framework for C&I was published in 1995 and in 2003 the framework was reviewed and amended. The CCFM framework for C&I is significant because it has as its objective to define sustainable forest management in the Canadian context and set the process for measurement using the prescribed C&I. The revised framework which was released at the XII World Forestry Congress in Quebec City, consists of six criteria and 46 indicators. Future reports on sustainable forest management to international forest policy fora, to the House of Commons, to the public, and to the customers of forest products companies, will be based on conformity to the indicators that form part of the CCFM framework for C&I. Consequently, the CCFM framework for C&I will guide forest policy development at provincial levels, form the basis of forest audits, set standards for forest certification under the Canadian Standards Association and establish the parameters for data collection under the National Forestry Database Program and the National Forest Information System. In the view of some forest policy analysts, the CCFM framework for C&I has made the National Forest Strategy process an irrelevant exercise. Others have stated that the CCFM framework has become the de facto starting point for developing sustainable forest management plans and reforming forest management institutions in much of Canada. The CCFM framework for C&I addresses Aboriginal forest issues in Criterion 6, Society's Responsibility. The criterion discusses Aboriginal and treaty rights but no indicator to accommodate these rights is posited. Indicator subjects do include consultation, area of land managed by Aboriginal peoples, traditional land use studies, and social economic factors related to community well-being.

The failure of the existing industrial model to implement sustainable forest management was noted by environmental organizations (ENGO's) soon after UNCED. To put pressure on governments and forest companies to manage forest sustainably, ENGO's developed the concept of forest certification and have promoted the standards of the Forest Stewardship Council. The idea behind forest certification is that consumers, who are concerned about forest degradation, will prefer to buy forest products from sustainably managed forests. The process of certification identifies these forests, and the products coming from them. Through certification, individual forests are assessed against publicly available standards and, if the forest scores highly, the forest manager obtains the right to label the products from that forest. At the point of sale, the label tells the consumer that the product is sourced from a forest that meets certain environmental and social standards. The three forest certification bodies in Canada each differ in their standards and criteria, scope, auditing procedures and compliance protocols:[24]

> The Forest Stewardship Council (FSC) is an international, non-profit certification association whose membership comprises environmental and social groups and progressive forestry and wood retail companies working in partnership to improve forest management worldwide.

[24] Behind the Logo, published by FERN, 2001 and On the Ground, a 2003 report commissioned by Forest Ethics, Greenpeace and Sierra Club of Canada

The Canadian Standards Association (CSA) is a leading developer of standards and codes that enhance public safety, improve quality of life, preserve the environment and facilitate trade. In 2001, the CSA updated their forestry performance and process standards (Z809), which are used to evaluate whether a company is managing its forests in an inclusive, responsible and sustainable manner. The CSA forestry standard uses the CCFM C&I framework as its guiding principles.

The Sustainable Forestry Initiative (SFI) program is a US-based system that focuses on the perpetual growing and harvesting of trees with the long-term protection of wildlife, plants, soil and water quality. In Canada, the SFI requires further certification through the CSA or International Standards Organization.

In addition to the establishment of new broad strategies, policy and regulations, or standards, sustainable forest management implementation is being pursued through conceptual approaches that are more holistic encompassing multi-disciplinary collaboration to address the broad range of issues. Conceptual approaches being touted as the means for advancement, and sometimes used synonymously, or to complement sustainable forest management, include:

- Ecosystem based management: an approach for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way. An ecosystem approach is based on the application of appropriate scientific methodologies focused on levels of biological organization, which encompass the essential structure, processes, functions and interactions among organisms and their environment. It recognizes that humans, with their cultural diversity, are an integral component of many ecosystems.[25]

- Integrated land-use planning: the whole landscape approach integrated landscape management is intended to be an holistic, comprehensive process, which incorporates more than one single use on more than one management unit, and captures the full range of ecological, social and economic values. It will address cumulative effects and the interrelationships between human activities and ecosystem integrity over the long term. This approach is gaining acceptability as the only means to address cumulative effects of development, (roads, pipelines, cut-over areas, etc.) on forest landscapes. Land use planning is becoming a pre-tenure requirement particularly in northern areas.

- Adaptive Management: an approach to forest management consisting of a framework embodying activities associated with planning, implementing, checking and continuous improvement. In the view of leading forest management research

[25] Decisions Adopted By The Conference Of The Parties To The Convention On Biological Diversity At Its Fifth Meeting, Nairobi 15-26 May, 2000 (UNEP/CBD/COP/5/23)

agencies, institutional support for adaptive management is needed to deal with the increasing threat of fire, insect outbreaks, windthrow and the often ineffective approaches to forest regeneration. Climate change is underlining the apparent need.

Forest management as it is currently practiced in Canada is changing forests' character and conditions, and will undoubtedly reduce the biological diversity below that which is found in natural or unmanaged forests. To a large degree, sustainable forest management initiatives are about minimizing the ecological footprint of the forest industries and other human activities in forested landscapes. This task is becoming increasingly complex as human activity increases and environmental issues become more pressing.

5.3 International Forest Policy

In addition to international discussions on trade and market access issues, Canada plays a lead role on policy development for SFM through various multi-lateral negotiations most of which take place through the United Nations (UN). Currently, there are six legally binding instruments which have direct and indirect effects on forest management and trade in forest products. Included are the CBD and the International Tropical Timber Agreement. Other instruments and processes, though not legally binding, are the Montreal Process on C&I for the Conservation and Sustainable Management of Temperate and Boreal Forests and the UNFF.

Of particular relevance is the UNFF, which has as its main objective to promote "….the management, conservation and sustainable development of all types of forests and to strengthen long-term political commitment to this end…." based on the Rio Declaration, the Forest Principles, Chapter 11 of Agenda 21 and the outcome of the IPF/IFF Processes and other key milestones of international forest policy. Participants in the UNFF process include member states of the UN and members of specialized agencies, i.e., the World Bank Indigenous Peoples are recognized as one of nine major groups that participate through the development of papers and through the "multi-stakeholder dialogue" though their input is considered to be advisory in nature.

Since 1995, Canada has promoted the idea of a legally binding International Forest Convention (IFC) to comprehensively address forest issues and values while balancing social, economic and environmental interests. Such an agreement would level the playing field for forest countries by establishing a shared definition of sustainable forest management applicable to all nations. At the sixth session of the UNFF which was held in February 2006, a resolution was passed calling for a non-legally binding instrument to be concluded by April 2007 at UNFF7.

5.4 Aboriginal Participation as a Component of SFM – The Rationale

As Canada's original inhabitants, Aboriginal peoples maintain a unique relationship with the land and they possess a unique legal status in Canada. Aboriginal peoples are the only peoples(s) referred to specifically in Canada's Constitution. By virtue of Section 35 of the Constitution Act 1982, Aboriginal and treaty rights are constitutionally protected. The Supreme Court of Canada has consistently made it clear that Aboriginal and treaty rights are part of the legal regime that defines the rule of law in Canada. In cases such as Haida, Halfway River, Delgamuukw, and others, Aboriginal and treaty rights have been inextricably linked with natural resources and forest policy. In Haida (2004), the court ruled that the "governments duty to consult with Aboriginal peoples and accommodate their interests, is grounded in the honour of the Crown." Though the courts have been explicit, provincial legislation and policy on forest management in most provinces, has been largely silent on the relationship between Aboriginal and treaty rights and forest management.

Other stakeholder groups comprise the dominant society and, generally speaking, forest policy in Canada was developed to meet their needs. Aboriginal peoples in Canada have unique forest values including traditional economic, and subsistence activities dependent on forest resources and forested landscapes. To address Indigenous peoples involvement in sustainable development, special measures are necessary as was contemplated in the 1987 *Brundtland Report*
(World Commission on Environment and Development). The report states:

"Tribal and indigenous peoples will need special attention as the forces of economic development disrupt their traditional life-styles – life-styles that can offer modern societies many lessons in the management of resource in complex forest…ecosystems. Their traditional rights should be recognized and they should be given a decisive voice in formulating policies about resource development in their areas."

Indigenous peoples' participation in sustainable forest management is both an element, and an objective, of sustainable development, not unlike biodiversity preservation. Indigenous peoples are part of the forest – they have a relationship of mutual dependence with the forest; they both contribute to and benefit from the forest. Sustainable forest management in an area cannot be achieved without the participation of the Indigenous people of that area.

6.0 The Growing Consensus on Aboriginal Forestry

The forest sector is changing to reflect environmental concerns, i.e. climate change, etc., trade and the need for industry competitiveness, conservation and protected areas commitments, international obligations and numerous other pressures. In the midst of the structural change that is occurring, Aboriginal forestry has to be appropriately positioned. To this point in time, provincial governments have taken a minimalist approach to Aboriginal and treaty rights. What has been established is that there is a "duty to consult" to which provinces have responded in

various ways. Policies on consultation are now emerging in almost all provinces though they differ in process and purpose.

The policies for consultation devised by the provinces will be effective only if and when First Nations have the resources to undertake consultation effectively. Until institutional developments ensure that capacity issues can be addressed, there remain many challenges and barriers to effective and meaningful consultation. This is an important turning point in Canada's history and a critical time especially for the forest sector.

Canada, as a forest nation is able to sustain an $81.8 billion forest industry and provide a myriad of socio-economic benefits to Canadians. However, industrial trends, transitions and demographic shifts have created unique challenges and opportunities in this sector. Eighty percent of First Nations in Canada are well situated to take advantage of the opportunities that are emerging in the forest sector due to significant demographic shifts in rural Canada, and emerging industry trends. There is a growing need for new arrangements because of the legislative requirements and because of the demographic trends for greater Aboriginal involvement in forest stewardship.

There is a need to re-orient forest policy and program development away from the traditional project-by-project approach and focus on facilitating the establishment of pre-conditions that would lead to a system and environment that supports Aboriginal involvement in forestry that is both strategic and consistent with legal requirements. Research is essential for the development of appropriate policy and institutional approaches in an effort to create a climate conducive to greater Aboriginal involvement in this sector. Sustainable economic development approaches are key to self-reliance and resource revenues can contribute significantly to healthy and sustainable Aboriginal economies. Positive developments include the increasing number of First Nations taking on a lead role in a comprehensive land-use planning processes. However, the lack of access to forest resources, in the form of area-based tenures, has meant that Aboriginal communities do not manage forests directly. Consequently, Aboriginal communities play a supportive role in addressing key forest management issues. Innovation is needed in tenure systems to enable a fuller contribution of Aboriginal forest values to SFM.

Aboriginal organizations have been active in the FSC Certification system as it is the only system which attempts to incorporate the accommodation of Aboriginal rights and values in its standards and auditing processes. Aboriginal organizations take the position that Aboriginal and treaty rights and their forest values are a fundamental component of sustainable forest management and that this position must be reflected in all institutional arrangements supporting the forest sector. Without institutional support, Aboriginal people will increasingly express their concerns through the courts, in market campaigns and in national and international forest policy fora.

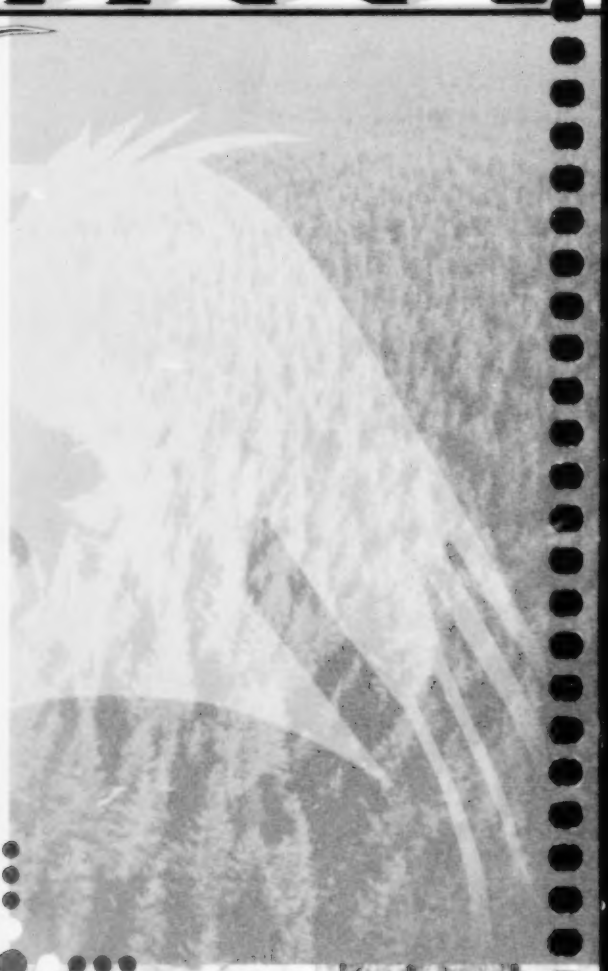
With respect to SFM certification, NAFA has said that the CSA requirements "do nothing more than commit to recognizing Aboriginal and treaty rights as they are currently interpreted by provincial legislation…which is already an insufficient approach." NAFA was also

"particularly disturbed by the approach taken by SFI towards certification and its complete lack of attention to Aboriginal peoples and consultation on forestry issues". "NAFA will continue to work co-operatively with FSC International and FSC Canada…NAFA will promote the FSC Certification system as the preferred certification system in meeting the needs of Aboriginal communities."

One of the principal barriers to increased Aboriginal involvement in SFM is the lack of resources, and capacity (financial, technical, business, organizational) within the First Nation community to contribute effectively to land use and forest management planning processes, and to seize development opportunities. Aboriginal capacity issues must be addressed in order to ensure effective forest management activities and planning processes.

From the Aboriginal perspective, public participation through multi-stakeholder processes is not the vehicle to obtain resolution of long standing grievances on rights issues or self-government. As First Nations and their organizations have repeatedly stated, government-to-government negotiations is the appropriate approach in this regard (see Not Just Another Stakeholder, NAFA). However, Aboriginal involvement in public participation processes can be used to create public awareness on Aboriginal issues and forest values and provide a more immediate means of achieving environmental mitigation measures, creating alliances with other stakeholders or influencing resource allocation decisions.

The notion that Aboriginal peoples should have a larger role in SFM, and particularly in decision-making processes which affect them, has been stated as a principle and as an objective in numerous instruments, originating both through international forest policy fora and in national forest policy processes. In Canada, the impetus for greater Aboriginal participation comes from a host of different rationale based on ecological, economic, social equity, and legal reasoning. Furthermore, in broad terms, the means to facilitate greater Aboriginal involvement has been prescribed in documents such as the 1996 Report of the Royal Commission on Aboriginal Peoples (RCAP), the National Forest Strategy 2003-2008, and the 2003 Report of the Auditor General of Canada entitled Economic Development of First Nation Communities – Institutional Arrangements. Should a significant number of the major action items or recommendations made in these three reports be followed through on, there would be demonstrable progress towards and increased level of Aboriginal participation in the forest sector.



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